

## **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Patrick Lynn, Police Chief/(954)693-8320

**PREPARED BY:** Danny Stallone, Code Compliance Official/af

**SUBJECT:** Ordinance

**AFFECTED DISTRICT:** n/a

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TITLE OF CHAPTER 6, "CODE ENFORCEMENT SYSTEM"; AMENDING SECTION 6-9, OF CHAPTER 6 OF THE CODE OF ORDINANCES BY PROVIDING FOR ALTERNATIVE CODE ENFORCEMENT PROCEDURES PURSUANT TO CHAPTER 162, FLORIDA STATUTES, AS AMENDED FROM TIME TO TIME; PROVIDING FOR THE ENFORCEMENT OF CODE VIOLATIONS BY CITATION; PROVIDING FOR A SCHEDULE OF CIVIL PENALTIES FOR DESIGNATED VIOLATIONS; PROVIDING FOR THE COLLECTION AND RECOVERY OF CIVIL PENALTIES AND COSTS ASSOCIATED WITH CODE ENFORCEMENT; PROVIDING FOR THE SUPERIOR PRIORITY OF TOWN OF DAVIE CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE LIENS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

**REPORT IN BRIEF:** To Amend the Title of Chapter 6, "Code Enforcement System"; (amending Section 6-9. Providing for alternative code enforcement procedures pursuant to Chapter 162, Florida as amended for the enforcement of code violations by citation, for a schedule of civil penalties for designated violations, for the collection and recovery of civil penalties and costs associated with code enforcement, and providing for the superior priority of the Town of Davie Code Enforcement Board and Special Magistrate Liens. This ordinance has been reviewed by the Assistant Attorney.

**PREVIOUS ACTIONS:**

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):**

**Attachment(s):** Ordinance

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TITLE OF CHAPTER 6, “CODE ENFORCEMENT SYSTEM”; AMENDING SECTION 6-9, OF CHAPTER 6 OF THE CODE OF ORDINANCES BY PROVIDING FOR ALTERNATIVE CODE ENFORCEMENT PROCEDURES PURSUANT TO CHAPTER 162, FLORIDA STATUTES, AS AMENDED FROM TIME TO TIME; PROVIDING FOR THE ENFORCEMENT OF CODE VIOLATIONS BY CITATION; PROVIDING FOR A SCHEDULE OF CIVIL PENALTIES FOR DESIGNATED VIOLATIONS; PROVIDING FOR THE COLLECTION AND RECOVERY OF CIVIL PENALTIES AND COSTS ASSOCIATED WITH CODE ENFORCEMENT; PROVIDING FOR THE SUPERIOR PRIORITY OF TOWN OF DAVIE CODE ENFORCEMENT BOARD AND SPECIAL MAGISTRATE LIENS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie (hereinafter referred to as “Town”), in an effort to enforce the Town’s Code of Ordinances, seeks to amend Chapter 6, entitled, “Code Enforcement Special Master”; and

WHEREAS, the Town Council desires to incorporate and implement relevant provisions of Chapter 162, Florida Statutes, as amended from time to time, and as referenced herein; and

WHEREAS, the Town Council desires to establish an alternative code enforcement system and procedures pursuant to Chapter 162, Florida Statutes which shall implement a citation procedure for code violators with a schedule of civil penalties applicable thereto; and

WHEREAS, Chapter 6, Section 6-9 of the Town of Davie Code of Ordinances establishes fine, lien and cost recovery procedures; and

WHEREAS, the Town Council desires to update and amend these regulations, provide a schedule of cost recovery fees, and clarify the priority of code enforcement liens in relation thereto; and

WHEREAS, after public notice and due consideration of public comments given at an advertised public hearing(s), the Town Council has determined that this Ordinance is necessary to advance and serve the health, safety and general welfare of the citizens of Davie, Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

**SECTION 1. AUTHORITY.** The Town of Davie has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida.

**SECTION 2. ADOPTION.** Chapter 6, of the Code of Ordinances is hereby amended as follows:

**Chapter 6 CODE ENFORCEMENT SPECIAL ~~MASTERS~~\* MAGISTRATE**

**Article I. Code Enforcement System.**

Sec. 6-1. Creation of code enforcement system.

- (a) The town, by this chapter, hereby adopts an alternate code enforcement system which shall provide for a special ~~master~~ magistrate, as hereinafter described and designated by the town council, with the authority to hold hearings and assess fines against violators of the town codes and ordinances.
  - (b) The town, by this chapter, hereby adopts Chapter 162 of the Florida Statutes in its entirety, as it may be amended from time to time.
- (Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-2. Intent.

It is the intent of this chapter to promote, protect, and improve the health, safety and welfare of the citizens of the town by authorizing and creating the position of special ~~master~~ magistrate for code enforcement proceedings with the authority to impose administrative fines and other noncriminal penalties, to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the town where a pending or repeat violation exists. (Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-3. Jurisdiction.

- (a) The jurisdiction of the special ~~master~~ magistrate appointed by the town council to hear cases brought by code inspectors shall include violations of any town ordinance or the Town Code and any code or state statute incorporated into the Town Code by reference occurring within the town.
  - (b) ~~Those code enforcement board cases on appeal to the circuit court or then pending before the code enforcement board, as evidenced by a notice of violation having been issued or by the matter having been set for hearing before the code enforcement board, shall be heard by the special master.~~
- (Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-4. Definitions.

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

*Chapter 162* shall mean Chapter 162, Florida Statutes, as currently enacted and as may be amended from time to time.

*Citation* means a supplemental method of code enforcement provided in Chapter 162 by which a code inspector first notifies a violator of a code or ordinance violation, provides a reasonable time for compliance, for which if not complied, the code inspector shall issue a citation to the violator or property owner that provides for a civil penalty, payment of which shall be due to the town, unless the respondent wishes to contest said violation, and for which the citation shall provide the procedures to contest the citation.

*Clerk* shall mean the town employee designated by the ~~town clerk~~ code compliance official with responsibility for coordinating hearings of the special ~~master~~ magistrate.

*Code* shall mean the Town of Davie Code and all resolutions and codes approved by the Town Council and state statutes incorporated into the Davie Town Code by reference.

*Code inspector* shall mean any employee or other agent of the town designated by law, ordinance, or the town administrator, whose duties are to insure compliance in and for town codes or ordinances and to present code violations to the special ~~master~~ magistrate.

*Notices* [shall mean those which] shall be provided as set forth in Chapter 162, Florida Statutes, as currently enacted or as may be amended from time to time.

*Owner* shall mean the person or persons reflected as the property owner in the most recent certified real property ad valorem tax rolls of the county. Additionally, in the case of multiple or joint ownership, notice to one (1) owner shall be considered for the purposes herein as notice to all multiple or joint owners.

*Repeat violation* shall mean a violation of a provision of a code or ordinance by a person whom the ~~previously existing~~ code enforcement board or the special ~~master~~ magistrate, or any other quasi-judicial or judicial process, has previously found ~~to have violated the same provision within five (5) years prior to the violation.~~ in violation, to have violated, or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding the violations occur at different locations in the town.

*Special ~~master~~ magistrate* shall mean any special ~~master~~ magistrate appointed by the town council to hear code enforcement violation cases.

*Town attorney* shall mean the office of the town attorney.

*Town council* shall mean the legislative body of the town.

*Violator* shall mean the person responsible for the ordinance or code violation which, in the appropriate circumstances, shall be the perpetrator of the violation, the owner of the real property or personal property, or person legally responsible for the property upon which the violation occurred, or both.  
(Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-5. Appointment, qualifications, powers of special ~~master~~ magistrate.

(a) The appointment and qualifications of the special ~~master~~ magistrate shall be as follows:

(1) The special ~~master~~ magistrate shall be appointed by the town council and shall serve with compensation as established by the town council upon appointment. The town council may appoint one (1) or more special ~~masters~~ magistrates. The special ~~master~~ magistrate shall serve at the pleasure of the town council.

(2) The special ~~master~~ magistrate must be both an attorney and a member in good standing of the Florida Bar for a minimum of five (5) years.

(3) The special ~~master~~ magistrate will be bound by the Code of Judicial Conduct as currently proscribed or as amended from time to time.

(b) The rules and regulations as found in Chapter 162 shall be adopted by the special ~~master~~ magistrate. The special ~~master~~ magistrate may adopt additional rules and regulations as are consistent with the provisions of Chapter 162, which the ~~master~~ special magistrate finds necessary to carry out the provisions of this chapter, subject to approval of the town council.

(Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-6. Code prosecution duties.

(a) The town attorney or code compliance official ~~shall~~ may represent the interest of the town and act as code prosecutor when the violator is represented by counsel.

(b) The code prosecutor shall have full prosecutorial discretion, including, but not limited to, the right to negotiate a consent agreement / plea with the violator and present that consent agreement / plea to the special ~~master~~ magistrate for approval, to recommend the disposition of a case to the special ~~master~~ magistrate, and to decline to prosecute a case, similar to the discretion exercised by the state attorney in criminal cases.

(c) The negotiated consent agreement / plea agreed to by the code prosecutor and respondent shall be presented to the special magistrate through which the code violations shall be found to be in violation or complied.

(Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-7. Code inspectors' duties.

(a) The code inspectors shall have the primary duty to enforce the various codes and ordinances and initiate an enforcement proceeding before the special ~~master~~ magistrate. The special ~~master~~ magistrate shall not have the power to initiate such enforcement proceedings.

(b) If a violation of a code or ordinance is found, the code inspectors shall give written notification to the alleged violator of the violation in accordance with Chapter 162. The written notification may consist of ~~by serving upon him~~ a "notice of violation and hearing" or a citation. The notice of violation and hearing shall give the alleged violator a reasonable time, in light of the nature of the violation, to correct the violation. The notice of violation and hearing shall advise the alleged violator that should the violation continue beyond the time specified for correction, or if the violation is corrected and reoccurs or is a repeat violation, that a hearing before a special ~~master~~ magistrate regarding such violation shall be held at a time and place set forth in such notice. In the case of a citation being issued to the violator, the citation shall adhere to the procedures defined in Chapter 162, and as proscribed hereafter in this code.

(Ord. No. 94-9, § 2, 2-16-94)

#### Sec. 6-8. Hearings.

(a) The violator shall be given at least ~~seven (7) working~~ ten (10) calendar days' written notification of the hearing. In addition to the written notification of hearing, the town may post a notice of violation and hearing or a citation at the violator's address which shall provide ten (10) calendar days' notification for the hearing. The conduct and preparation of the notice of violation and hearing, or the citation and its issuance to an alleged violator ~~conduct of the hearing~~ shall be consistent with Chapter 162 as currently enacted or as may be amended from time to time.

(b) Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but hearsay evidence shall not, in and of itself, be considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

(c) The alleged violator shall have the right to be represented by an attorney; however, the alleged violator or his attorney shall provide the town with written notice that an attorney is representing the violator's interest at least five (5) ~~working~~ calendar days prior to the scheduled date of the hearing.

(d) All testimony before the special ~~master~~ magistrate shall be under oath and shall be recorded. The alleged violator or the town may cause the proceedings to be recorded by a certified court reporter or other certified recording instrument; however, the town shall be under no obligation to provide a certified court reporter or other certified recording instrument, but, rather, the town may use a recording device of its choice to satisfy its obligation to record the meeting.



(e) The burden of proof shall be with the code inspector to show, by the greater weight of evidence, that a code violation exists and that the alleged violator committed or was responsible for maintaining the violation.

(f) If ~~written~~ notice has been provided to an alleged violator of the hearing, a hearing may be conducted and an order rendered in the absence of the violator.

(g) The special ~~master~~ magistrate may, for good cause shown, postpone or continue a hearing.

(Ord. No. 94-9, § 2, 2-16-94)

Sec. 6-8.1 Town adoption of supplemental code procedures, citation, and schedule of civil penalties;

(a) The Town hereby adopts supplemental code enforcement procedures pursuant to sections 162.03, 162.21, and 162.23, Florida Statutes, as amended from time to time, that provide authority for code inspectors to utilize the following code enforcement procedures and assess fines against violators of the respective codes and ordinances within the Town of Davie. The code enforcement procedures hereby adopted shall include authority for code inspectors to issue citations to violators with accompanying civil penalties as provided herein, to issue notices to appear at a hearing conducted by a county court, and to issue citations for administrative hearings to be heard by town code enforcement special magistrates.

(b) The Town Council does hereby adopt the form and content of a citation as provided by state law currently enacted or as may be amended from time to time.

(c) Citations

1. Code inspectors shall have the authority to initiate enforcement proceedings by issuing a citation to a person that may require the appearance of the violator at an administrative hearing before a special magistrate.
2. Prior to issuing a citation, the code inspector shall provide a written notice to the person or the property owner in violation that there is a violation of a town code or ordinance, and shall establish a reasonable time period, not to exceed thirty (30) calendar days, within which the person must correct the violation. If, upon personal investigation, the code inspector finds that the person has not corrected the violation within the designated time period, the code inspector may issue a citation to the person who has committed the violation or the property owner where the violation has occurred.
3. Service of notice of a citation shall be deemed appropriate by hand delivering the citation to the violator or property owner; or posting the citation at the location of the mailing address identified in the public records of the county property appraiser for the violator or property owner in a conspicuous manner.

4. The code inspector is not required to provide the alleged violator or property owner with a reasonable period of time to correct the violation prior to issuing the citation if a repeat violation is found, or if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or that the violator or the property owner is engaged in violations of an itinerant or transient nature, or if the violation is irreparable or irreversible.
5. The citation form shall include, but not be limited, to the following:
  - (a) Date and time of issuance;
  - (b) Name of the code inspector and jurisdiction;
  - (c) Name and address of the violator;
  - (d) Code section or ordinance that has been violated;
  - (e) Brief description of the nature of the violation, including location, date and time of violation;
  - (f) Amount of the applicable civil penalty;
  - (g) Procedure for the person to follow in order to pay the civil penalty or to contest the citation;
  - (h) Notice that if the person fails to pay the civil penalty within the time allowed, and fails to request an administrative hearing before the special magistrate within ten (10) calendar days of service of the citation, the person shall be determined to have waived their rights to contest the citation and that, in such a case, judgment may be entered for the applicable maximum civil penalty; and
  - (i) Notice that the person may be liable for reasonable costs of the hearing should the violator be found guilty of the violation.
- (d) Citation issued to appear before a special magistrate:
  - (1) The person who has been served with a citation to appear before a special magistrate shall either correct the violation, and pay the civil penalty in the manner indicated on the citation; or
  - (2) Request an administrative hearing before a special magistrate to appeal the decision of the code inspector. Said appeal shall be filed not later than ten (10) calendar days after the service of the citation.

- (3) Failure of the violator to appeal the decision of the code inspector within the ten (10) calendar days shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing may result in the imposition of a fine against the violator and/or costs which may result in a lien on the property where the violation occurred.
- (4) Should the violator appeal the citation and be found in violation by the special magistrate, in addition to the imposition of a fine, the violator shall be assessed an administrative cost of fifty dollars (\$50.00). The special magistrate shall not waive the administrative costs.
- (5) Should the violator waive their right to an administrative hearing, in addition to the imposition of the fine, the violator shall be assessed an administrative cost of fifty dollars (\$50.00) that shall not be waived by the special magistrate.
- (e) The following table sets forth those code violations for which civil penalties may be cited under this section. The descriptions of violations are provided for purposes of general identification only. The specific code provisions applicable thereto are indicated in addition to the respective violation description. Amendments affecting the numbering of the referenced sections shall not affect the validity of the fines.

<u><b>Violation Category</b></u>	<u><b>1<sup>st</sup> Offense</b></u>	<u><b>Repeat: 2<sup>nd</sup> Offense</b></u>	<u><b>Repeat: 3<sup>rd</sup> Offense</b></u>	<u><b>Repeat: 4<sup>th</sup> Offense</b></u>
<u>4-62 License and Rabies Vaccination</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>4-63 (A) Dogs at large</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>4-64 Vicious/Dangerous Dogs</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>4-65 Dog Leashing Requirements</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>4-66 Excessive Dog Noise</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>6-12 through 6-27 Minimum Housing Code Violations</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>8-16 Building Permit Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

<u>9-2 (a)/(b): Unscheduled Bulk Waste Accumulation</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>9-22 (a) Residential Garbage / Trash Removal Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>9-22 (b) Commercial Garbage / Trash Removal Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>9-24 (A-F) Sanitary Nuisance</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>9-51(a) Rubbish / Trash</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>9-51(b) Weeds / Wild growth</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>11-17 Derelict Vehicle/ No Current License</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (A)(8)(C) Swimming pool enclosure required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (A)(8)(D) Pool Area/Self Closing Locks Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-32 (D) Zoning: Non-permitted Uses</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (G) Commercial Equipment Prohibited /Tow Truck Parking Prohibition</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33(G)(2) Trucks &gt; 5000 lbs GVW prohibited / Commercial vehicle</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

<u>signage</u>				
<u>12-33 (G)(4) Residential Trailer Code Violation</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (G)(7) RV/Trailer Code Violation</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (P)(5) Outdoor Storage prohibited</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (11) (A) Storage Containers/Pods</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (S)(1) Private Property Landscape Maintenance/ Free of Refuse, Debris</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (S)(2) Private Property Landscape Maintenance / Irrigation &amp; Trimming</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (U) Nuisance/Eyesore</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-33 (DD) Building material storage on residential property</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-34 (B)(1) Animals (Agriculture standards)</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-34 (B)(2)/(3) Permitted livestock quantity</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-34 (B)(13) Pigs or hogs prohibited</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-105 (C) (D) Public r-o-w / swale maintenance; refuse/debris removal &amp; landscape maintenance</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

<u>12-109 Sight Distance requirements not to be impeded by Landscape material</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-205 ( C) Sight Distance requirements to be Maintained</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-238 ( C) Sign Permit Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-238 (J)(12) Sandwich signs prohibited</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-238 (L) Vehicle signage prohibited</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-238 (M) Sign Maintenance</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-243 (D)(4) Balloon Displayed w/o Permit</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-243 (D)(5) Banner sign w/o permit</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-387 Western Theme District permit requirements</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>12-391 (1) Western Theme District Signage</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>13-17 Local Business Tax Receipt required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>13-21(c) Home Business Tax Use Restriction; or,12-34 (N) Only Mail/Phone Use</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>13-23 (b) Residential Restricted Business Tax Receipt Required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>13-23 (c) Restricted Residential Business Tax Receipt / Zoning Requirements</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

<u>15-7 Noise-related Violations: (1) Music; (11) Motors &amp; pumps; or, (13) Building / premises originated</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>15-7 (14) Noise: Construction activity (Prohibited Hours: Weekdays from 7PM--7AM; and at all times on Saturday, Sunday &amp; Holidays); Note: 15-9 permits violations to be found w/o sound measurements taken</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>16-55 Graffiti Violations</u>	<u>\$25.00</u>	<u>-----</u>	<u>-----</u>	<u>-----</u>
<u>17-1.2 Peddler License &amp; Permit required</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>21-22 Obstructing Sidewalk Prohibited</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>24-43.1 Vehicle parking /storage on public swale/street for more than 24 hours</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>25-32 Water Conservation requirements</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>26-22 (B) Tree Removal Permit Required with Land Clearing</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>26-42 Tree Abuse (Hat racking)</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>26-55 Clearing and Grubbing permit</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>26-23 (b) Tree Removal w/o Land Clearing/site plan.</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

<u>Reserved</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>Reserved</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>
<u>Reserved</u>	<u>\$75.00</u>	<u>\$150.00</u>	<u>\$300.00</u>	<u>\$500.00</u>

(f) The town is authorized to enforce its codes and ordinances under the provisions of this section and by the enactment of this section; the town shall by this section set forth procedures for the implementation of such provisions, including a schedule of violations and civil penalties to be assessed by code inspectors. If the town chooses to enforce codes or ordinances under the provisions of this section, each code or ordinance or the ordinance enacted by the town establishing procedures for implementation of this section shall provide:

- (1) That a violation of a code or an ordinance is a civil infraction.
- (2) A maximum civil penalty not to exceed \$500.
- (3) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.
- (4) For the issuance of a citation by a code inspector who has reasonable cause to believe that a person has committed an act in violation of a code or ordinance.
- (5) For the contesting of a citation in county court.
- (6) Such procedures and provisions as are necessary to provide for the enforcement of a code or ordinance under the provisions of this section.

(g) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(h) The provisions of this section shall not apply to the enforcement pursuant to F.S. §§ 553.79 and 553.80 of building codes adopted pursuant to F.S. § 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the town. For the purposes of this division, "building codes" means only those codes adopted pursuant to F.S. § 553.73.

Sec. 6-9. Establishment of fine and lien and cost recovery procedures; establishment of cost recovery schedule of fines; establishment of superior priority of code enforcement liens.

(a) The establishment of a fine and lien shall be consistent with and pursuant to the provisions of Chapter 162. The special magistrate shall have the authority expressed in Chapter 162, and adopted by town ordinance to impose fines for code violations which shall not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature. When imposing the increased code enforcement fines the ~~code enforcement board~~ or special magistrate shall consider the following criteria in determining the amount of the fines, including, but not limited to, those factors as set forth here:



- (1) The gravity of the violation;
- (2) Any actions taken by the violator to correct the violation.
- (3) Any previous violations committed by the violator.

The town ~~has adopted~~ ~~shall utilize~~ the provision within ~~the Statute~~ Chapter 162 which ~~allows~~ ~~allowing for~~ the imposition of additional fines to cover all costs incurred by the town in enforcing the code and all costs of repairs for said code violations. The town may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the town to make further repairs or to maintain the property and does not create any liability against the town for any damages to the property if such repairs were completed in good faith. The special magistrate may impose additional fines to cover all costs incurred by the town in enforcing its codes and all costs of repairs pursuant to this section. The additional fines shall be determined by the town's actual costs, and may include the costs of the code enforcement administrative and attorney fees.

(b) A certified copy of an order imposing a fine may be recorded among the public records of the county and shall constitute a lien superior to all other liens and mortgages, except for tax liens and mortgages recorded prior to the effective date of this ordinance, and thereafter shall constitute a lien against the land upon which the violation exists or, if the violator does not own the land, upon any other real or personal property owned by the violator. It may be enforced in the same manner as a court ~~judgement~~ judgment by the sheriffs of the state, including levy against the personal property, but shall not be deemed otherwise to be a ~~judgement~~ judgment of a court except for enforcement purposes. As authorized by law, the town council may request that the town attorney foreclose on duly recorded liens that have ~~been~~ remained unpaid. Property subject to a lien established by the special ~~master~~ magistrate may be foreclosed by the town in a manner provided by state law for the foreclosure of mortgages on real property, or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Chapter 173, as currently enacted or as amended from time to time, or payment enforced otherwise as authorized by law.

(c) Table of Code Compliance Cost Recovery Program Fines and Administrative fees.

<b><u>No.</u></b>	<b><u>Code Compliance Cost Recovery Program Fine Schedule</u></b>	<b><u>Fines*</u></b>
<u>1</u>	<u>Notice of Violation Issued to Respondent / Complied prior to Special Magistrate (SM) Hearing without Final Order</u>	<u>\$100.00</u>
<u>2</u>	<u>Final Order with Consent Agreement to Remain in Compliance presented to S/M at Hearing</u>	<u>\$150.00</u>

<u>3</u>	<u>Final Order with SM Hearing and Issuance of a Final Order to Remain in Compliance</u>	<u>\$200.00</u>
<u>4</u>	<u>Final Order with Consent Agreement presented at SM Hearing and Inspection for Compliance Required</u>	<u>\$250.00</u>
<u>5</u>	<u>Final Order with SM Hearing and Issuance of a Final Order with Compliance Inspection Required</u>	<u>\$350.00</u>
<u>6</u>	<u>Noncompliance with Final Order and SM Noncompliance (N/C) Hearing Scheduled</u>	<u>\$400.00</u>
<u>7</u>	<u>Special Magistrate Order Imposing Lien issued at N/C Hearing with Recording of Order by Town</u>	<u>\$500.00</u>
<u>8</u>	<u>**Continuance Requested by Respondent with SM Order and Administrative Fee</u>	<u>\$50.00</u>
<u>9</u>	<u>Sign Retrieval / Storage Fee (retrieval and storage fee per day after town's removal)</u>	<u>\$10 per sign / day</u>
<u>10</u>	<u>Cleaning Debris and/or Mowing Overgrowth (Admn. Fee Only, Town will add actual costs associated with work performed)</u>	<u>\$200.00</u>
<u>11</u>	<u>Boarding and Securing Abandoned or Other Property (Admn. Fee Only, Town will add actual costs associated with work performed)</u>	<u>\$200.00</u>
<u>12</u>	<u>Code Compliance Property Records Request (Liens, Orders, etc.)</u>	<u>\$25.00</u>
<u>13</u>	<u>Citation (Special magistrate administrative fee)</u>	<u>\$50.00</u>
<u>14</u>	<u>Mitigation Base Fee (may be amended to reflect salaries/costs)</u>	<u>\$1,300.00</u>
<u>15</u>	<u>Recording Fees (\$18.50 cost and \$25.00 administrative fee)</u>	<u>\$43.50</u>
<u>16</u>	<u>Town Attorney fees (pursuant to rates approved by the Town Council)</u>	<u>Current Hourly rate</u>
<u>17</u>	<u>Administrative fee to accompany all reasonable repair costs</u>	<u>\$200.00</u>
<u>18</u>	<u>Special magistrate (fee approved by Town Council as may be amended from time to time)</u>	<u>\$100.00</u>

\* Cost recovery fines may be assessed in addition to citation civil penalties and/or special magistrate ordered fines.

\*\* A respondent's first request for a continuance may be granted by the special magistrate for good cause without any fee; subsequent continuance requests require administrative fee not to be waived by the special magistrate.

(e) (d) Upon full payment of any code enforcement lien, the town clerk shall be authorized to execute and deliver a full satisfaction of the lien to the violator or his representative for his or her recording.

SECTION 3. SEVERABILITY. If any section or portion of a section of this ordinance proves to invalid, unlawful, or unconstitutional, it shall not be held to impair the validity, force, or effect of any other section or part of a section of this Ordinance. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. CONFLICTS. This Ordinance shall control over any Ordinances or parts of Ordinances in conflict herewith.

SECTION 5. CODIFICATION. It is the intention of the Town Council of the Town of Davie, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Town of Davie, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; that the word

*“Ordinance”* may be changed to *“Section,” “Article,”* or other appropriate word.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009

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MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009